

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 85 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and

MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MEHUL LAXMAN GOLANI

Versus

POLICE INSPECTOR

Appearance:

MR PK PANCHOLI for Petitioner

PUBLIC PROSECUTOR for Respondent No. 3

CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE R.P.DHOLAKIA

Date of decision: 16/02/98

ORAL JUDGEMENT (Per Patel, J.)

The applicant has moved this Court inter alia alleging that his wife: Karishma, is wrongfully detained against her wishes by respondent No.2, who happens to be her father.

Karishma, daughter of respondent No.2, according to the petitioner has attained the age of majority and he had acquaintance as they were staying in the neighbourhood; The friendship between the two led them to marry on 2.1.1998 as per Christian rites, and a marriage certificate has been issued by the Priest, which is annexed to the petition. It is required to be noted that the marriage took place at Ahmedabad. It is clear from the averments made in the petition that on 2.1.1998, the petitioner and the said Karishma left Ahmedabad and reached Hyderabad on 4.1.1998. At the place of petitioner's friend, they enjoyed for some time. On 7.1.1998, maternal uncle of Karishma and five others came to the said place and advised the petitioner to return to Ahmedabad on false promise to settle the issue and also to perform the marriage which may be arranged by family of Karishma. It is stated that under the circumstances, the petitioner and the said Karishma started from Hyderabad to Ahmedabad in a Sumo vehicle, and on way, on 8.1.1998, they also stayed at Ankleshwar. On 8.1.1998, as per the allegation, the petitioner was threatened by one Mr. Patel, maternal uncle of Karishma, and he was told to run away. The petitioner, with a view to save his life, ran away and came to Ahmedabad on 9.1.1998 separately. The petitioner also signed an agreement for divorce on 12.1.1998 under coercion and against his desire. It is the say of the petitioner that even now, Karishma wants to stay with him.

We put a pointed question whether there is any material to indicate the desire of Karishma to stay with the petitioner, and learned advocate stated that there is no evidence with him. We also inquired about the agreement of divorce referred to above as a copy of the same was not annexed with the petition, and the learned advocate has placed before us a copy of the agreement, signed on a stamp paper. [Xerox copy thereof is ordered to be taken on record, and the copy tendered by learned advocate be returned to him.] The said document clearly indicates that the same was executed before a Notary Public who has put his seal on all the pages of the document. We also put a pointed question about the identity of two witnesses who signed the document, namely C.A. Carpenter and K.S. Carpenter, and the learned advocate, after taking instructions from the petitioner who is present in the Court, stated before us that they are close relatives of the petitioner, i.e. grandfather and grandmother of the petitioner. When close relatives were witnesses to the documents, it is hardly fair on the part of the petitioner to say that the document was executed under coercion.

It is required to be noted that the document referred to hereinabove is executed on 11.1.1998. No grievance is made thereafter before any authority and for the first time, a petition is filed before this Court on 10.2.1998 - after almost a month. The petitioner kept mum for all these days, and it clearly indicates that this petition is filed with some ulterior motives.

The girl Karishma is a major and she is entitled to take a decision of her own, and for the best reasons known to her, she might have changed her mind. We do not enter into the details whether the marriage was performed as per law or not. We would only say that this is not a fit case wherein this Court should exercise its power, more particularly after looking at the document.

In the result, this petition requires to be rejected, and is rejected.

csm./ -----